

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

In Re:)
)
FLOORING SOLUTIONS, INC.,) **Case No. 16-12380-BFK**
)
Debtor.) **Chapter 7**
)

)

TRUSTEE'S APPLICATION TO EMPLOY SPECIAL COUNSEL

The Chapter 7 Trustee, Klinette H. Kindred, (“Trustee”) applies pursuant to 11 U.S.C. §327 and Bankruptcy Rule 2014 for entry of an Order appointing and designating Kevin M. O’Donnell, Esquire and the firm of Henry & O’Donnell, P.C. (“H&O”) as special counsel to perform specified legal services for the Trustee upon the following grounds:

1. This matter is before the Court pursuant to the voluntary petition filed by the Debtor Flooring Solutions, Inc. (“FSI” or the “Debtor) under Chapter 7 of the Bankruptcy Code on July 8, 2016.
2. On July 9, 2016, Klinette H. Kindred was appointed chapter 7 trustee.
3. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding within the meaning of 28 U.S.C. § 157 (b)(2).

RELIEF REQUESTED

4. By this Application, the Trustee seeks to employ and retain H&O as her special counsel pursuant to section 327 of the Bankruptcy Code to perform specified legal services relating to the investigation and recovery of Chapter 5 causes of action during these chapter 7 cases as more fully described below.

SERVICES TO BE RENDERED

5. The services of special counsel are necessary to enable the Trustee to fully investigate and pursue recovery of Chapter 5 causes of action in these cases. H&O may be requested to render, among others, the following services to the Trustee:

- a. Advising and representing the Trustee in connection with the investigation of potential claims that may lie on behalf of the estate under Chapter 5 of the Bankruptcy Code;
- b. Advising and representing the Trustee in connection with the making of demands and other communications related to the pursuit and recovery of potential claims under Chapter 5 of the Bankruptcy Code;
- c. Advising and representing the Trustee in connection with the drafting of pleadings including complaints, motions, memoranda and other legal pleadings relating to the pursuit and recovery of potential claims under Chapter 5 of the Bankruptcy Code;
- d. Attending meetings with third parties and participating in negotiations with respect to the above matters; and
- e. Performing all other necessary legal services and providing all other necessary legal advice to the Trustee in connection with the pursuit and recovery of potential claims under Chapter 5 of the Bankruptcy Code.

6. The Trustee recognizes that parties in interest, including the United States Trustee, reserve their rights with respect to any potential objection to any application for compensation filed in connection with this application.

7. H&O's hourly rates currently run from \$395 to \$495 per hour.

DISINTERESTEDNESS OF H&O

8. Except as set forth in the Declaration of Kevin M. O'Donnell attached hereto, to the best of the Trustee's knowledge, information and belief, H&O and the partners, counsel and associates of H&O: (a) do not have any connection with the Debtor, its creditors, the U.S. Trustee, any person employed in the Office of the U.S. Trustee, or any other party in interest, or their respective attorneys, and (b) do not hold or represent any interest adverse to the estate.

9. More specifically, as set forth in the Declaration of Kevin M. O'Donnell and to the best of the Trustee's knowledge:

- a. Neither H&O nor any attorney at H&O is or was a creditor or an insider of the Debtor.
- b. H&O is not, and was not within two years of the Petition Date herein, an officer, director or employee of the Debtor.
- c. H&O previously held an interest in this case by virtue of H&O's prior representation of Sonabank, the principal secured creditor herein. As noted in the Verified Statement of Kevin M. O'Donnell attached hereto, H&O was previously engaged as counsel to Sonabank, a secured creditor herein, for the purpose of obtaining relief from the automatic stay of 11 U.S.C. 362 to permit Sonabank to exercise its rights in collateral securing certain loans. In connection with its representation, H&O prepared and filed a motion seeking relief from the automatic stay on behalf of Sonabank (Dkt. #18), and secured entry of an order granting relief requested in the motion (Dkt. #32). Sonabank is now represented by separate counsel on all matters pertaining to this case and has further expressly consented to H&O's proposed representation of the Chapter 7 Trustee herein. There are no known conflicts of interest that would prevent H&O from now serving as special counsel to the Trustee herein.

10. It is in the best interest of the Debtors' estate, the creditors and parties in interest to authorize the employment of H&O as special counsel to the Trustee.

CONCLUSION

WHEREFORE, the Trustee respectfully requests that this Court enter an order (i) authorizing the Trustee's employment of H&O as special counsel to the Trustee upon the terms outlined in this Application; and (ii) granting such other and further relief as is just and proper.

WHEREFORE Trustee prays for entry of the attached Order.

Respectfully submitted,

/s/ Klinette H. Kindred
Klinette H. Kindred, Trustee (VSB No. 18000)
TYLER, BARTL, RAMSDELL & COUNTS, PLC
300 N. Washington Street, #202
Alexandria, VA 22314
(703) 842-0539

CERTIFICATE OF SERVICE

I hereby certify that on August 17, 2016, a true copy of the foregoing Application to Employ Counsel, the Verified Statement, and proposed Order were served electronically via the CM/ECF system or by first class mail, postage prepaid, on the following parties in interest:

Office of the U.S. Trustee
115 South Union Street, Suite 210
Alexandria, Virginia 22314

Thomas K. Plofchan, Jr.
Westlake Legal Group
46175 Westlake Drive, #320
Sterling, VA 20165

/s/ Klinette H. Kindred
Klinette H. Kindred